

Supplemental Report of the 2001 Budget
Special Education Compliance Monitoring System Report
December 1, 2001 Report

Executive Summary

It is the intent of the Legislature in the Supplemental Report Language of the 2001 Budget Act that the California Department of Education (CDE), in conjunction with the Legislative Analyst's Office (LAO) and the Department of Finance (DOF), prepare two Special Education Compliance Monitoring System Reports.

The first report, "*Description of the Existing System*," was provided to appropriate legislative committees and the Governor on September 1, 2001. The second report entitled, "*Special Education Program Monitoring System Plan*," is to be submitted on December 1, 2001 to the appropriate legislative committees and the Governor. These reports were developed in consultation with DOF and LAO, with LAO approving the specific topics to be addressed in each report. In developing both reports, the three agencies consulted with other interested parties including parents/guardians, teachers, administrators, the Special Education Advisory Commission, legislative staff, and other interested parties.

For this submission, CDE is required to provide a brief report and targeted monitoring plans for the its Compliance Monitoring System or Quality Assurance Process (QAP), including recommendations for improvement, as necessary, within each of its four essential components. The narrative section of this report provides descriptive information and data about CDE's monitoring plans and recommendations for improvement. Attachment 1 briefly describes the monitoring plans for 2002-03, 2003-04, and 2004-05. Based on monitoring findings in each of the four essential components, CDE will annually identify, track, monitor, and ensure correction of well over **100,000** instances of student and/or systemic noncompliance.

The targets and recommendations in this report are based on continuing the four components of the QAP process *within the basic funding level currently provided*. CDE does recommend funding the Section 28 Letter, recently submitted to DOF, requesting \$2.8 million in federal funds to support operating functions in the current year. This request was also made in a Budget Change Proposal (BCP) for 2002-03. This shortfall stems from not fully funding the cost of the 30 new positions CDE received in 2000-01 to implement the Quality Assurance Process, and is needed to *minimally* meet federal and state statutory and regulatory requirements. It should be noted that CDE is currently authorized to retain for state administration and compliance monitoring, 13.5 percent, or \$84 million, of California's federal grant. The State Budget, however, only authorizes a total of \$27 million for these purposes, of which \$8 million supports a contract with the McGeorge School of Law to conduct due process proceedings, and \$1.3 million supports the Clearinghouse for Specialized Media and Technology. If more funds were provided for state administration, CDE would be able to increase its compliance monitoring and technical assistance efforts.

Recommendations for Improvement in the QAP Monitoring System

The major recommendations include:

1. Fully fund operational costs for existing positions, including required travel costs.
Resources needed: *Adjust budget by increasing federal state operations funding by at least \$2.4 million (approve Section 28 Letter in current year and reflect in 2002-03 base budget).*

2. Develop and implement an integrated data system that incorporates data from all QAP monitoring sources.
Resources needed: *Appropriate \$270,000 (federal funds) for one-time costs, and \$324,000 (federal funds) for ongoing costs to support three new positions and staff training.*
3. Continue to investigate complaints within required timelines and explore ways to stem the growing number of complaints.
Resources needed: *Appropriate \$576,000 (federal funds) to support 4 new positions to investigate complaints, continue local Alternative Dispute Resolution (ADR) activities, and conduct a mediation pilot.*
4. Continue Facilitated School Districts as a process for increasing student outcomes and ensuring procedural guarantees for selected districts.
Resources needed: *Continue current funding level (\$1.2 million) to support: existing Facilitated Districts; a new cohort of 4 - 8 districts; and an evaluation.*

Special Education Program Monitoring System Plan
2002-03, 2003-04, and 2004-05
December 1, 2001 Report

The California Department of Education (CDE) began implementation of a new system for monitoring compliance and improving educational outcomes for students with disabilities in 1999-2000.

The monitoring system is designed to facilitate moves from:

- Monitoring of “process” to monitoring student outcomes;
- Paper compliance to substantive compliance;
- Routine–cyclical reviews to data-informed, focused reviews; and
- Technical assistance and training based on perceived need to technical assistance and training based on monitoring findings.

CDE is responsible for ensuring that all public agencies in the state comply with the federal requirements that all eligible children with disabilities receive a free appropriate public education in the least restrictive environment. CDE developed the Quality Assurance Process (QAP) as the framework to achieve this purpose.

The QAP is a data informed process for ensuring an effective and objective monitoring system. This data informed system is composed of four essential components:

1. Local Plan;
2. Coordinated Compliance Self Review;
3. Compliance Complaints; and
4. Focused Monitoring, which includes all monitoring activity in both public and non-public entities.

These four major components work together in an integrated way to provide useful information and evidence of compliance.

Recommendations to the Legislature

CDE makes two overarching recommendations that are critical to the continued effective implementation of the QAP.

1. Fully Fund Operational Costs

The 2001 Budget did not appropriate sufficient funds to support current special education staff within CDE. This shortfall stems from not fully funding in the current year, the cost of the 30 new positions CDE received in 2000-01 to implement the Quality Assurance Process. CDE strongly recommends increasing CDE’s base budget by at least \$2.4 million in the current year. ***This can be done by approving the Section 28 Letter, recently submitted to DOF, and carrying that base adjustment into the 2002 Budget.*** These funds are needed to *minimally* meet federal and state statutory and regulatory requirements. It should be noted that CDE is currently authorized to retain for state administration and compliance monitoring, 13.5 percent, or \$84 million, of California’s federal grant. The State Budget, however, only authorizes a total of \$27 million for these purposes, of which \$8 million is a contract with McGeorge School of Law to conduct due process proceedings, and \$1.3 million supports the Clearinghouse for Specialized Media and Technology. If more funds were provided for state administration, CDE would be able to increase its compliance monitoring efforts, particularly the focused monitoring component (Verification Reviews) of the QAP.

2. Develop and Implement an Integrated Data System

While the monitoring procedures and methods utilized in each of the QAP components are effectively providing data that identifies areas of noncompliance, the potential impact of the data has not been garnered because the data collected through each of these components are not integrated into a *data system*. This significantly limits efficiency in conducting and tracking monitoring activities and reporting to various entities. Therefore CDE recommends that the Legislature appropriate funds to develop and implement an **Integrated Data System** that incorporates all the data from the various QAP components. Such a data system will be an invaluable tool that will focus monitoring, technical assistance, enforcement, and sanction efforts. ***CDE requests a one-time appropriation of \$270,000 (federal funds) to develop a FSR and for anticipated hardware and software costs, and ongoing funding of \$324,000 (federal funds) to support three positions and training.*** CDE has submitted a Budget Change Proposal (BCP) for 2002-03 that requests funding to support such a data system, however, the recommendation outlined in this report reflects further refinement of that request.

The following information describes CDE's current activities in each of the QAP components, and plans and projected workload targets for the next three years, including recommendations for improvement.

1. LOCAL PLANS

In the past, CDE annually reviewed 20-30 Special Education Local Plan Area (SELPA) local plans, which encompass one-fourth of the Local Education Agencies (LEAs) in the state. Based on changes to state and federal law, however, all 117 SELPAs must now submit their Local Plans by December 31 each year, and CDE must annually review these plans. The Local Plan includes a number of assurances, policies and procedures, and Budget and Service Plans. The State Board of Education at its October 2001 meeting extended the submission deadline for current Local Plans to December 31, 2002. Therefore, beginning in 2003, CDE will annually review Local Plans for 117 SELPAs.

Current Status: CDE currently reports no findings of noncompliance for a Local Plan that would require Corrective Actions Plans or enforcement/sanction actions. Local Plan data, however, should be integrated in a data system with information from the other QAP components.

Recommendation to the Legislature: Appropriate funds needed to develop and implement an integrated data system that integrates data from the Local Plans with monitoring information from other QAP components. (See attachment for specifics.)

2. COORDINATED COMPLIANCE SELF-REVIEW

CDE has developed and implemented the *Coordinated Compliance Review Self-Review* (CCR-SR). This review process is similar to the U.S. Department of Education, Office of Special Education Programs (OSEP) *Continuous Improvement Monitoring Process* (CIMP) model, which gathers, analyzes, and monitors local self-review data to ensure local accountability for implementation of the Individuals with Disabilities Education Act (IDEA). The OSEP and CDE monitoring methods also both build local capacity that results in identifying and correcting noncompliance and targeting areas for improvement based on data.

Each school district must conduct a CCR-SR every four years. Therefore, each year approximately one-fourth of all districts in the state (approximately 250 districts), conduct a CCR-SR. By June 2004, all districts in the state will have conducted this self-review. Data from these reviews indicate that this self-review process results in significant identification and correction of noncompliance. From this and other district data, CDE will determine which districts require onsite focused monitoring through a Verification Review.

Current Status: CDE is currently analyzing data from the self-reviews submitted on June 30, 2001. Thus far, based on 45 district self-reviews, districts report 6,340 findings of noncompliance. If projected to the remaining 232 districts that submitted self-reviews, CDE estimates that this QAP component will identify a total of **32,686** noncompliant findings.

Currently, all CCR-SR data is processed manually, as there is no system to electronically track findings of noncompliance, corrective actions, evidence of corrective actions taken, technical assistance activities, correction of noncompliance, and completion dates. The CCR-SR data is also not integrated with other QAP components in a cost-effective manner.

Recommendation to the Legislature: Appropriate funds needed to develop and implement an integrated data system that incorporates data from the CCR-SRs with monitoring information from other QAP components. (See attachment for specifics.)

3. COMPLIANCE COMPLAINTS

As Table 1 shows, the number of compliance complaints that require investigation, final reporting, and follow-up, have increased dramatically over the past three years. Current law requires CDE to investigate all complaints, issue reports, and follow up on all noncompliant findings within specified timeframes.

Current Status: Based on the annual growth of complaints filed since 1997, CDE projects that the number of complaints will exceed 1,400 in 2001-02 and climb to 2,000 in 2004-05. This rapid growth rate of complaints far exceeds the rate of growth in the general and special education populations, and appears to stem from parents and students becoming more aware and knowledgeable about their rights under state and federal laws.

Table 1

Year	# Filed or Projected	# Noncompliant Allegations	# Noncompliant Findings	# Required Corrective Actions
1998-1999	730	1733	808	933
1999-2000	898	2046	1050	1651
2000-2001	1191	2536	1124	2178
2001-2002*	(1400)	TBD	TBD	TBD
2002-2003*	(1600)	TBD	TBD	TBD
2003-2004*	(1800)	TBD	TBD	TBD
2004-2005*	(2000)	TBD	TBD	TBD
TOTAL (As of 2000/01)	2819	6315	2262	4762

*Projected

To meet the increased complaints workload, CDE has increased its complaint investigation staff from six investigators in 1997 to sixteen investigators in 2001-02. This staffing increase was based on the number of complaints, and a Zero Based Budget (ZBB) study completed in 2000 that determined that 20 consultants were needed to process the current number of complaints. In addition, CDE continues to fund a contract with the McGeorge School of Law to conduct due process proceedings, which has grown to nearly \$8 million in the current year, and will likely increase well beyond that amount next year.

In order to find less costly alternatives to resolving complaints, CDE is supporting Alternative Dispute Resolution (ADR) projects for 21 agencies, and is in the beginning stages of doing cost comparisons for those locales participating in the ADR process. While preliminary data are promising, it is too early to

conclude that ADR is cost-effective and merits expansion. CDE plans to continue gathering and analyzing the data to compare the cost-effectiveness of ADR, however, is hampered by the lack of resources to support this work. Currently CDE is only able to support this activity with one-half a position. CDE also believes that it may be cost-effective to resolve complaints through mediation rather than investigation. Accordingly, CDE recommends supporting a mediation pilot project.

Finally, compliance complaint data is currently tracked electronically, however, the data is not integrated with other QAP component information.

Recommendations to the Legislature:

- Appropriate \$476,000 (federal funds) to support four new positions to investigate complaints within the required timelines, and continue ADR activities.
- Appropriate an additional \$370,000 (federal funds) to support the current due process contract with the McGeorge School of Law. (This request is included in CDE's operating funds Section 28 Letter and BCP.)
- Continue to fund local ADR activities at the current level.
- Appropriate \$100,000 (federal funds) to support a mediation pilot project.
- Appropriate funds to develop and implement an Integrated Data System that incorporates data from Compliance Complaints with information from other QAP components. (See attachment for specifics.)

4. FOCUSED MONITORING

a. Verification Reviews

Current Status: Verification Reviews (VRs) began in 1999-2000. Tentative data indicates that these reviews effectively identify and correct noncompliance. A critical component of the VR process is the follow-up and tracking of all noncompliant findings at both the student and systemic level. Each district that receives a VR also receives a follow-up onsite review to determine whether corrective actions have been taken and to ensure that noncompliance has not reoccurred.

As Table 2 displays, CDE conducted 54 VRs in 1999-2000, 55 VRs in 2000-01, and will conduct 44 VRs in 2001-02. As part of the federal special conditions negotiations, OSEP requested CDE to annually conduct VRs of approximately 10% of the school districts (100 VRs). Eventually this number was reduced to 55-65 VRs because CDE received less funding than requested to support this activity. In the current year, CDE will only conduct 44 VRs, because insufficient funds were provided in the budget to fully support the consultant travel needed to conduct the reviews and follow-ups.

Table 2

Year	# Verification Reviews	# Noncompliant Student Level Findings	# Noncompliant Systemic Level Findings
1999-00	54	15,421	985
2000-01	55	16,370*	806*
2001-02	44**	(to be determined)	(to be determined)

*Estimated based on data from 35 districts

**Includes four VRs of California Youth Authority programs

CDE's level of monitoring is dependent upon an LEA's ability to provide special education and related services in a manner consistent with state and federal law and regulations. Therefore, once an Integrated Data System is in place, CDE will be better able to identify the number of districts that most warrant a Verification Review. In the meantime, CDE believes a minimum of 55 VRs should be conducted annually.

Recommendations to the Legislature:

- To increase the number of VRs conducted annually to 55, fully support CDE's state operations budget. (This request is included in CDE's operating funds Section 28 Letter and 2002-03 BCP.)
- Appropriate funding needed to develop and implement an integrated data system that incorporates data from the Verification Reviews with monitoring information from all other QAP components. (See attachment for specifics.)

b. Facilitated School Districts

Current Status: Beginning in 1999-2000, Facilitated (also called Collaborative) School Districts were selected for an extensive three-year systems change approach to improve student outcomes and ensure compliance. Based on Key Performance Indicators (KPIs) CDE originally identified 40 districts that were in need of special assistance, however, this number was reduced to 19 districts to conform to the level of funding (\$1.2 million) provided for this activity.

Currently, 19 Facilitated School Districts are being monitored for KPIs and compliance correction, based on their 1999-2000 Verification Reviews. Fifteen of these districts receive grants and extensive technical assistance; four districts do not receive grants and are monitored for data only, including correction of noncompliance. By September 30, 2002, these Facilitated Districts will submit information and results regarding each of their self-selected KPIs (see Table 3) and the effect of this three-year improvement process.

Table 3

District	KPI(s) Selected
Alum Rock USD	Increase the percent of fully certified staff Increase the percent of students returning to special education
Antelope Valley UHSD	Increase the percent of fully certified staff Increase the percent of placement in general education
Brawley HSD	Increase the percent of placement in general education
Centinella USD	Increase the percent of fully certified staff Increase the percent of placement in general education
Greenfield	Increase the percent of placement in general education
Hayward USD	Increase the percent of placement in general education
LAUSD District "D"	Increase the average performance of students with disabilities on measures of literacy Increase the percent of placement in general education
Mendota USD	Increase the average performance of students with disabilities on measures of literacy Increase the percent of students with disabilities participating in STAR
Modesto City Elem.SD	Increase the average performance of students with disabilities on measures of literacy
North Sacramento SD	Increase the average performance of students with disabilities on measures of literacy
Palo Verde USD	Increase the average performance of students with disabilities on measures of literacy Increase the percent of placement in general education
Perris UHSD	Increase the average performance of students with disabilities on measures of literacy

San Ysidro Elementary SD	Decrease the degree of disproportion of placement by ethnicity by disability category Increase the percent of fully certified staff Increase the percent of placement in general education Increase the percent of students in special education returning to general education
W. Contra Costa USD	Increase the average performance of students with disabilities on measures of literacy Increase the percent of students in special education returning to general education Increase the percent of students exiting with a diploma
Wm. S. Hart USD	Increase the average performance of students with disabilities on measures of literacy Increase the percent of students with disabilities participating in STAR Increase the percent of students with disabilities participating in STAR

NOTE: The following four districts do not receive grants: Redlands USD, San Francisco USD, Pittsburg USD, and San Diego City USD. KPI data only is tracked for these districts.

Recommendations to the Legislature:

- Continue to support this QAP component at the same level of funding (\$1.2 million) in order to: (1) identify and select a new cohort of four to eight Facilitated Districts that report on the impact of the process on student outcomes and procedural guarantees; (2) continue supporting the existing 19 Facilitated Districts; and (3) support an evaluation.
- Appropriate funding needed to develop and implement an integrated data system that incorporates data from the Facilitated Districts with monitoring information from all other QAP components. (See Attachment for specifics.)

c. California Special Education Management Information System (CASEMIS)

Current Status: Beginning in 1999-2000, CASEMIS was utilized statewide to identify and correct noncompliance for students who were not receiving timely three-year reevaluations and annual Individualized Education Program (IEP) reviews. CDE reported noncompliant findings directly to district superintendents, including the names of students who were overdue for a reevaluation or IEP review. As Table 4 displays, data indicates that this method of monitoring has been highly effective in identifying and correcting noncompliance within a six-month period of time. CDE will continue to monitor all overdue three-year reevaluations and IEP annual reviews through CASEMIS biannually.

Table 4

Monitoring Date	# School Districts	# Overdue 3 Year Reevaluation	%	# Overdue IEP Annual Reviews	%
6/30/00	1017	27,015	4.5%	74,068	12.4
12/1/00	1020	14,730	2.4%	30,367	5.0%
TOTAL		41,745		104,435	

CASEMIS has proven to be an effective monitoring method for identifying and correcting noncompliance, however, CASEMIS data is currently not integrated with other QAP components in a data system.

Recommendation to the Legislature: Appropriate funding needed to develop and implement an integrated data system that incorporates data from CASEMIS with monitoring information from all other QAP components. (See attachment for specifics.)

d. Nonpublic Schools and Agencies

Current Status: There are approximately 800 certified nonpublic agencies (NPA) and 400 certified nonpublic schools (NPS), for a total of 1,200. NPA and NPS receive a two-year certification, subject to the submission of an annual renewal application and filing fee.

To ensure compliance with state and federal laws and regulations, CDE annually conducts approximately 125 NPS onsite reviews. Of this total, CDE conducts: 100 reviews as part of a four-year review cycle; and approximately 25 reviews that stem from complaints, or to certify new private school applicants. Current data for findings of noncompliance is displayed in Table 5. Currently CDE does not have resources to conduct follow-up reviews of NPS' with noncompliant findings.

Table 5

Year	# Noncompliant Findings	# Correction of Noncompliant Findings	# Noncompliant Findings Needing Follow Up by CDE
1999-2000	714	292	422
2000-2001	295	104	191
TOTAL	1009	396	612

Currently, the certification application process is submitted and transacted through hard copy, and is manually evaluated and tracked. In addition CDE manually tracks and monitors all findings of noncompliance and correction, and there is no integrated data system that incorporates noncompliant finding, corrective actions, and certification findings with other QAP components.

Recommendations to the Legislature:

- Appropriate \$150,000 (federal funds) to fully support staff and travel costs to meet statutory requirements related to NPS on-site reviews, including conducting follow-up reviews of noncompliant findings.
- Appropriate funds to implement an "on-line" certification process capable of receiving applications for both NPS and NPA certifications. This will greatly reduce workload and free up staff resources for both initial and follow-up onsite reviews.
- Appropriate funds to develop and implement an integrated data system that incorporates the NPS and NPA information with monitoring data from all other QAP components. (See attachment for specifics.)

e. California Youth Authority

Current Status: As authorized by SB 505 (Chapter 536, Statutes of 2001), and described in the Interagency Agreement with the California Youth Authority (CYA), CDE will annually conduct four Verification Reviews (VRs), in coordination with CYA, and with support from the Center for the Study of Correctional Education at CSU San Bernardino. The CYA programs that do not receive a VR shall conduct a CCR Self-Review of their special education programs. CDE will conduct onsite follow-up reviews of the VRs the year following the initial review to ensure corrective actions have been taken and that noncompliance has not reoccurred.

As with other QAP components, there is no integrated data system that incorporates information regarding the CYA programs with other QAP components.

Recommendations to the Legislature:

- Continue the \$250,000 appropriation to support CDE compliance and monitoring activities related to CYA programs.
- Appropriate funding needed to develop and implement an integrated data system that incorporates data from CYA findings with monitoring information from all other QAP components. (See attachment for specifics.)

ENFORCEMENT AND SANCTIONS

Current Status: Federal and state laws (20 U.S.C. §1412(a)(11); 34 C.F.R. §300.600; CA Ed. Code §56000) require CDE, as the state education agency, to enforce local compliance with the laws guaranteeing children with disabilities a free appropriate public education. CDE monitors LEA compliance through all existing QAP components:

- Local Plans;
- Compliance Complaint Investigations;
- Coordinated Compliance Self-Review; and
- Focused Monitoring (including Verification Reviews, CASEMIS targeted monitoring, NPS reviews, and CYA reviews).

CDE is required to and has the authority to sanction districts demonstrating prolonged and substantial noncompliance, determined through any of the methods of monitoring or investigation to ensure compliance with corrective actions. Enforcement/sanction options include:

- Withholding state and/or federal special education funds (CA Code of Regulations, Title V §4670(a)(1); 20 U.S.C. §1413(d)(1));
- Giving probationary eligibility for future state or federal funding, conditioned on compliance with specified conditions (CA Code of Regulations, Title V §4670(a)(2));
- Disapproving a local plan (CA Education Code §56205); and
- Seeking court enforcement of corrective actions (CA Code of Civil Procedure §1085; CA Code of Regulations, Title V §4670(a)(3)).

CDE notifies a district when it intends to impose any of these actions. Sanctions are lifted upon receipt of evidence that all corrective actions have been completed and that all areas of noncompliance have been remedied. These enforcement and sanction activities require intense follow-up and monitoring activity.

Currently CDE is seeking court enforcement of corrective actions in one school district, and is required to monitor another district's compliance with court-ordered corrective actions. These two activities alone require significant legal resources. In the first case, three law firms are fighting the imposition of sanctions by CDE, whereas CDE is represented by one attorney who also has other workload. These law firms have generated a lot of work through discovery requests and their motion practice. CDE has submitted a BCP for 2002-03 which requests additional legal staff to meet this and other CDE workload.

Finally, CDE is anticipating notifying some districts this fiscal year of the potential for their funding to be withheld if corrective actions are not taken.

Recommendation to the Legislature:

- Support CDE's 2002-03 BCP for additional positions for the Legal Office to pursue enforcement actions or provide additional funding to allow the Legal Office to contract for the necessary services that would allow them to pursue enforcement actions.
- Appropriate funding needed to develop and implement an integrated data system that incorporates data from all QAP components. To impose sanctions, CDE must be able to document all evidence of noncompliance and activities to remedy, in order to demonstrate the necessity for sanctions on a school district. (See attachment for specifics.)